

**ANNUAL REPORT
OF THE
RAIL CORRIDOR SAFETY COMMITTEE**



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

October, 2010

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2010

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RAIL CORRIDOR SAFETY COMMITTEE

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A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

I. STATUTORY DIRECTIVE

P.L. 335-1995 charged the Rail Corridor Safety Committee to do the following:

1. Study the safety of rail corridors, including corridors at overpasses, underpasses, and crossings;
2. Review rail safety records;
3. Study methods of encouraging cooperation among railroads, local government, state government, and federal government to enhance the safety of railroads;
4. Study other topics as assigned by the Legislative Council.

The Indiana General Assembly enacted legislation (P. L. 28 - 2000, extended by P. L.114 - 2005) reestablishing the Rail Corridor Safety Committee. The committee expires November 1, 2010.

II. INTRODUCTION AND REASONS FOR STUDY

Because Indiana had been one of the leaders in rail grade crossing incidents and fatalities in the nation, the 1995 General Assembly created the Rail Corridor Safety Committee to study and review various aspects of rail corridor safety. This report will cover the activities of the committee, beginning in 2006 and ending October 21, 2010. The committee's activities from its inception in 1995 through October 29, 1999, were covered in the 1999 Final Report for the committee. The committee's activities from 2000 through October 3, 2005, were covered in the 2005 Final Report for the committee.

III. SUMMARY OF WORK PROGRAM

2006 Committee Activity

The committee met one time during the 2006 interim on September 27, 2006. The committee heard testimony on the following topics:

- (1) The Shelbyville-to-Lawrenceburg rail line and its role in bringing the Honda automotive plant to Greensburg.
- (2) The Railroad Grade Crossing Improvement Fund (RGCIF) and the Railway-Highway Crossing Program, 23 U.S.C. Section 130 (Section 130).
- (3) The needs of short line railroads.
- (4) Statistics regarding the number of incidents at public and private crossings.
- (5) An overview and history of Indiana Operation Lifesaver.

2007 Committee Activity

The committee met three times during the 2007 interim on August 31, September 19, and

October 17, 2007.

At the August 31 meeting, the committee heard testimony on the following topics:

- (1) H.R. 1, the federal rail security legislation, and rail safety issues not addressed by the legislation.
- (2) The need for communication and cooperation between local fire departments and the railroads regarding hazardous materials transportation.

At the September 19 meeting, the committee heard testimony on the following topics:

- (1) The provisions of H.R. 1, the federal rail security legislation.
- (2) The overall decline in train accident rates and improvement in rail safety.
- (3) Current railroad industry safety measures, including hazardous materials emergency plans, hazardous materials training, and hazardous materials incident notification procedures.
- (4) The volume of rail traffic involving hazardous materials and the relative safety of transporting hazardous materials by rail instead of by truck.

At the October 17, 2007 meeting, the committee heard testimony on the following topics:

- (1) Indiana Department of Homeland Security emergency preparedness measures regarding rail safety and homeland security grants to local communities with the highest security risk.
- (2) Increasing the penalty for trespassing in a rail yard from a misdemeanor to a felony.

2008 Committee Activity

The committee met one time during the 2008 interim on August 19, 2008. The committee heard testimony on the following topics:

- (1) Funding available for railroad grade crossing improvements, including the Railroad Grade Crossing Improvement Fund and the Railway-Highway Crossing Program funds.
- (2) Statistics regarding Indiana railroad grade crossing incidents.
- (3) Norfolk Southern's efforts to improve railroad grade crossing safety.
- (4) The inability of existing short line railroad infrastructure to accommodate heavy axle loads and the need for funding to upgrade infrastructure.

2009 Committee Activity

The committee met two times during the 2009 interim, on September 25 and October 30.

At the September 25 meeting, the committee heard testimony on the following topics:

- (1) Statistics concerning railroad grade crossing incidents.
- (2) The process for closing crossings.
- (3) Overview of the Indiana Operation Lifesaver program.
- (4) A proposed tax credit for railroads for the maintenance costs of electronic grade crossing warning devices.
- (5) Amending the law to require motor vehicles to yield to on-track maintenance equipment.

At the October 30 meeting, the committee heard testimony on the following topics:

- (1) Statistics regarding collisions between cars and on-track maintenance equipment.
- (2) Preliminary Draft 3425 requiring a driver of a vehicle to stop at a railroad crossing upon the approach of on-track equipment.

2010 Committee Activity

The committee met one time during the 2010 interim on October 21, 2010. The committee heard testimony on the following topics:

- (1) An overview of rail grade crossing safety from 2005 to 2010.
- (2) The committee's proposed final report.

The committee voted 5-0 to approve this final report.

IV. SUMMARY OF TESTIMONY

The committee heard testimony summarized below, from several individuals. (For a more complete report of testimony and other matters considered by the committee, the minutes of the committee's meetings can be found on the committee's website (<http://www.in.gov/legislative>), or copies may be obtained by contacting the Legislative Information Center of the Legislative Services Agency.)

2006 Committee Activity

Shelbyville-to-Lawrenceburg rail line

Sen. Bob Jackman provided an overview of the Shelbyville to Lawrenceville rail line and its role in bringing the Honda automotive plant to Greensburg. Sen. Jackman explained that the railroad tried to abandon the rail line, but a group of businesses successfully fought the abandonment and actively use it to ship their goods.

Railroad improvements funding

Railroad Grade Crossing Improvement Fund (RGCIF)

Tom Beck, Indiana Department of Transportation (InDOT), said that local communities and railroads are eligible to receive grants from the RGCIF. Local communities use the RGCIF for crossing closures, signage, pavement markings, median barriers, illumination, and other safety improvements. Railroads use these funds for upgrading incandescent bulbs to LEDs, surface maintenance, sight obstruction removal, signage, retro-reflectorization, and illumination. This fund is supported through a state General Fund appropriation.

Section 130 funds and SAFETEA-LU funds

Cathy Hale, Indiana Rail Transportation Group (IRTG), summarized the projects that are available for Railway-Highway Crossing Program funds, 23 U.S.C. section 130 (section 130 funds) and SAFETEA-LU funds:

- Projects eligible for section 130 funds include signing and pavement markings, active warning devices, illumination, crossing surfaces, grade separations, sight distance improvements, geometric improvements to the roadway approaches and closing or consolidating crossings.
- Projects eligible for SAFETEA-LU funds include pedestrian and bicycle facilities, landscaping and beautification, historic preservation, archaeological planning and research, environmental mitigation, scenic easements, preservation of abandoned corridors, control and removal of outdoor advertising, safety and educational activities for pedestrians and bicyclists, and rehabilitation and operation of historic transportation buildings, structures or facilities.

Key Short Line Railroad Issues

Cathy Hale identified the key issues affecting short line railroads:

- Transportation corridors need to be protected against abandonment.
- Indiana needs to pursue a grade crossing consolidation program. Railroads invest a significant amount of money to maintain and improve safety at rail grade crossings.
- Increasing funding for short line railroads by increasing the amount appropriated to the Industrial

Rail Service Fund (IRSF) and RGCIF, and expanding the projects eligible for grants from the RGCIF. Ms. Hale also suggested the use SAFETEA-LU funds for railroad rehabilitation.

Railroad Grade Crossing Incidents

Witnesses provided the following statistics to the committee regarding grade crossing incidents:

- InDOT reported that Indiana had 160 at-grade crashes in 2005, making Indiana second in the nation for at-grade crashes.
- InDOT reported that Indiana had 21 fatalities at grade crossings in 2005, making Indiana second in the nation for fatalities.
- InDOT reported that with 6,058 public crossings, Indiana ranks sixth in the nation for the number of public crossings.
- According to a report of the U.S. DOT, 94% of all grade crossing incidents are the result of motorist error.
- Statistics compiled by the Federal Railroad Administration (FRA) indicate that in 2005 there were 355 fatalities and 970 injuries in 3,010 vehicle train crashes nationally.

Indiana Operation Lifesaver

Tom Kinser, Indiana Operation Lifesaver (INOL), gave a brief overview and history of the INOL since its founding in 1980. Mr. Kinser said that Operation Lifesaver was established by the Union Pacific Railroad in 1972, and since its inception, the national grade crossing crash and casualty averages have been reduced by over 50 per cent.

2007 Committee Activity

The 2007 Rail Corridor Safety Committee focused on railroad safety and security with regard to the transportation of hazardous materials and preventing trespassing on railroad property. Federal rail security legislation, H.R. 1 (P.L. 110-053) became law in August 2007, resulting in uncertainty as to what aspects of rail security were preempted by federal law.

Labor union safety concerns

Bill Verdeyen, Brotherhood of Locomotive Engineers and Trainmen, told the committee that H.R. 1, addresses some of the safety concerns identified in a Teamsters' security survey of rail workers but the following additional concerns still need to be addressed by the state:

- Requiring locking mechanisms on locomotives.
- Requiring railroads to communicate with state and local authorities about transportation of hazardous materials and incidents.
- Increased fines for trespassing in rail yards.

- Money received from the federal government as a result of H.R. 1 needs to be distributed to different types of railroads and for the purposes contemplated by the legislation.
- Railroads must cooperate with the Indiana Department of Homeland Security (IDHS).

Communication between fire department and railroad

Fire department representatives testified that the railroads already communicate and cooperate with their departments regarding transportation of hazardous materials, and said that railroads should only notify the departments about the larger hazardous materials incidents requiring their assistance.

Emergency response plans

Steve Watson, CSX and IRTG, said that CSX and Norfolk Southern have emergency response plans for hazardous materials incidents. He said that communities can prepare for shipments that typically move through their community by obtaining from the railroad a yearly history of hazardous materials shipments, however notification regarding specific shipments is not feasible. John Secor, Louisville & Indiana Railroad, said that his Class 3 railroad shares its safety action plan and other information with communities.

Hazardous materials notification procedures

Railroad representatives said that train crews notify dispatchers in the event of a hazardous material incident and the dispatchers inform the police/ fire responders. Ron Haines, Norfolk Southern, told the committee that the train personnel prepare local responders by informing them of the type of hazardous material involved in a spill.

Hazardous materials training

Railroad representatives said that rail employees receive hazardous materials training from the Emergency Response Training Center at the Transportation Technology Center in Pueblo, Colorado, and at the National Labor College. Bob Babcock, Indiana Rail Road Company, said that his railroad's crews receive annual training on reporting hazardous spills.

Improvement in rail safety

Jennifer MacDonald, Association of American Railroads (AAR), said that train accident rates have declined significantly since 1980 and that it is safer to transport hazardous materials by rail than by truck, stating that in 2006, there were less than 1,000 hazardous materials incidents involving transport by rail, while over 16,000 hazardous materials incidents occurred involving truck transport.

Witnesses representing railroads testified that short line railroads do not present a risk in transporting hazardous materials. Steve Watson said that only twelve of the 32 short line railroads in Indiana move hazardous materials. Tom Streicher, American Association of Short Line Railroads, said that FRA statistics showed Indiana short line railroads improved safety over the past ten years. Mr. Streicher said that safety could be further improved by upgrading old track.

Federal regulation

Jennifer MacDonald, AAR said that H.R. 1, the recent federal rail security bill requires the U.S. Department of Homeland Security (DHS) to perform risk assessments and the railroads to develop security plans that must be approved by the DHS. In addition, H.R. 1. requires railroad employees to undergo security training, although the railroads have already begun training their front line employees. Ms. McDonald made the following points:

- Federal law requires railroads to carry hazardous materials. A railroad's insurance costs for carrying hazardous materials exceed the revenue generated by carrying hazardous materials.
- The Transportation Security Administration (TSA) has issued voluntary security guidelines for railroads. Some areas are designated high threat urban areas that require site-specific security plans.
- The U.S. Department of Transportation (USDOT) has proposed regulations for the transportation of hazardous materials, with the focus on analyzing the routes for transporting hazardous materials. USDOT regulations already require transporters of hazardous materials to develop and implement security plans and train appropriate employees.

Role of the Indiana Department of Homeland Security (IDHS)

J. Eric Dietz, Executive Director, IDHS, made the following points:

- IDHS' critical infrastructure planning focuses on issues that aren't likely to be preempted by federal law, such as providing training and resources to help communities establish and maintain response task forces.
- The IDHS has fielded hazardous materials teams in over 40 communities across the state.
- The IDHS does not have a team or committee devoted to rail threats. It is more beneficial to get local communities working with the railroads on security issues than involve the state in it.
- The Indiana Intelligence Fusion Center coordinates information between state, federal, and local jurisdictions and performs threat analyses for key events across the state.

Security measures addressing trespass

Witnesses representing the railroads said that they have employed the following security measures to protect the railroad against trespassers:

- Installed locomotive locks.
- Installed auxiliary power units (which shut down the locomotive when it is not in use).
- Camera surveillance of railyards.
- Installation of rear-end cameras on trains.

- Removing reversers from the locomotives before leaving the locomotive.
- Fencing, gates, employment of private security companies, keyless entries, and employee awareness programs.

Increased penalties for trespass

The committee discussed increasing the penalty for trespassing in a rail yard from a misdemeanor to a C felony.

2008 Committee Activity

Update on crossing improvement funds

Mike Riley, InDOT, made the following points:

- In 2007, \$745,000 in grants were awarded from the RGCIF for improvements. In 2008, \$759,000 was awarded from the fund for improvements. In 2008, communities applied for 23 projects and were awarded funds for 20 projects, while railroads applied for 8 projects and were awarded funds for all of them.
- In 2007, the total amount of Section 130 funds allocated was \$7.9 million dollars. A total of 26 projects were authorized, including seven crossings that were upgraded from passive to active devices and 19 active crossings that were upgraded to add gates, cantilever lights, and replace obsolete equipment.

Update on rail grade crossing incidents

Mr. Riley gave the committee the following statistics regarding rail grade crossing incidents:

- In 2007, Indiana had 161 collisions at rail grade crossings, ranking the state third nationally. In 2007, Indiana had 18 fatalities and 48 injuries at grade crossings, ranking the state fifth in fatalities and sixth in injuries nationally.
- From January through May 2008 there were 62 incidents at Indiana's public grade crossings, resulting in 11 fatalities.

Norfolk Southern rail safety

Mr. Rudy Husband, Norfolk Southern, said that Indiana ranks fifth out of Norfolk Southern's 22 states for track miles, but it ranks first for grade crossing incidents. He said, however, that the number of incidents involving Norfolk Southern trains in Indiana is declining by 7.4% when comparing 2007 to 2006, and by 13.7% for the period 2005 to 2007. Mr. Husband explained how Norfolk Southern works with INOL, InDOT, and local law enforcement to improve rail safety.

Heavy axle loads

Cathy Hale said that rail infrastructure needs to be upgraded in order to accommodate heavy axle loads (HAL) or 286,000 lb. capacity rail cars. None of the top three short lines in Indiana are presently capable of using the 286,000 lb. rail cars and the upgrade will be expensive. Ms. Hale said that the Industrial Rail Service Fund (IRSF) currently generates approximately \$1.2 M per year for Indiana's 38 short line railroads. Ms. Hale suggested that the legislature increase the amount available in the IRSF to be used for upgrading infrastructure.

2009 Committee Activity

Crossing improvement and InDOT rail division activities

Mike Riley, InDOT discussed the following points.

- In 2009, \$884,000 in awards will be made from the RGCIF. Indiana's federal apportionment of Section 130 funds has averaged approximately \$7.167 M for the last three fiscal years.
- Mr. Riley summarized statistics regarding the number of grade crossing incidents, types of crossings and Indiana's national ranking in these categories. Mr. Riley told the committee that for the last four years, Indiana has averaged about 142 incidents at rail grade crossings, and 16 fatalities per year.
- Mr. Riley gave an overview of the crossing closure process.

Indiana Operation Lifesaver

Jessica Feder, INOL, gave an overview of the history of INOL and its mission to improve driver and pedestrian behavior at railroad crossings by encouraging compliance with traffic laws relating to crossing signs and signals. To accomplish its mission, INOL does the following:

- Increases public awareness about the dangers around the rails.
- Promotes active enforcement of traffic laws relating to crossing signs and signals and private property laws related to trespassing.
- Encourages continued engineering research and innovation to improve safety of railroad crossings.

Ms. Feder summarized state and federal statistics concerning rail crossing incidents, stating that the Indiana counties with the most grade crossing collisions in 2008 were Lake, St. Joseph, Marion, LaPorte, Elkhart, and Gibson.

Tax credits for infrastructure improvement

Steve Watson, CSX, said that while federal grants and the state pay the cost of installing active warning signals, maintenance and replacement of the signal systems is the sole responsibility of the

railroad. Mr. Watson said that the average annual signal maintenance costs are about \$3,200 per crossing, resulting in an annual expenditure of \$10.4 million by Indiana's railroads, exclusive of replacement costs. Mr. Watson proposed that the committee recommend legislation giving railroads a state income tax credit for the costs of the maintenance of electronic grade crossing warning devices.

Tom Fruechtenicht, representing the IRTG, a volunteer association of Class 1, regional and short line railroads, said that the majority of the \$10.4 million funds are spent by and for Class 1 railroads. Mr. Fruechtenicht said that short lines have fewer crossings, but very limited budgets. He said that the Industrial Rail Service Fund, which is available to short lines for some projects, is funded by a portion of the state sales tax and generates approximately \$2 million per year.

Yielding to on-track equipment

Jeff Bainter, Brotherhood of Maintenance Way Employees, proposed that the committee recommend legislation to require motor vehicles to yield at crossings for hi-rail vehicles and on-track roadway maintenance machinery. The committee considered PD 3245 which requires a driver of a vehicle to stop at a railroad crossing upon the approach of on-track equipment. Mike Riley, InDOT, told the committee that since 2005 there have been eight incidents in Indiana involving on-track equipment. Representative Stevenson raised the concern that if this legislation passes, crossings without stop signs could put motorists at risk because operators of the on-track equipment will think that the motorists will stop. Representative Davis opposed the bill stating that incidents are infrequent and people are not aware of the law. A motion to adopt PD 3425 passed 6-1 by a show of hands.

2010 Committee Activity

Rail grade crossing safety 2005-2010

Mike Riley, Rail Division, InDOT reviewed rail grade crossing safety statistics from 2005-2010. Mr. Riley made the following points:

- Rail crossing accidents have decreased over the five year period. The number of installed active warning devices has increased, but over 60% of accidents still occur at crossings with active devices, due to driver error.
- The majority of rail grade crashes occur in the northwest corridor of Indiana due to the volume of traffic in that area.

Mr. Riley reviewed the state and federal funds available for rail grade crossing improvements. He also discussed Indiana's preparation of a rail safety plan as required by the federal Rail Safety Improvement Act of 2008. In addition, the 2009 Manual on Uniform Traffic Control Devices (MUTCD) requires stop or yield signs to be posted at all passive grade crossings by 2019.

Final report

The committee voted 5-0 to approve the final report.

Requests for legislative changes

The following requests for legislative changes were brought to the committee:

Funding for short line railroads

(1) Increase appropriations to the Industrial Rail Service Fund and the Rail Grade Crossing Improvement Fund to make more funds available to short lines to upgrade infrastructure. This proposal was not acted on by the committee.

(2) Expand the types of projects eligible for grants from the Rail Grade Crossing Improvement Fund. This proposal was not acted on by the committee.

Rail safety

(1) Require locking mechanisms on locomotives. This proposal was not acted on by the committee.

(2) Require railroads to communicate with state and local authorities about transportation of hazardous materials and incidents. This proposal was not acted on by the committee.

(3) Increase the penalty for trespassing from a misdemeanor to a felony/increase fines for trespassing in rail yards. This proposal was not acted on by the committee.

(4) Require motor vehicles to yield at crossings for hi-rail vehicles and on-track roadway maintenance machinery. This proposal was the subject of PD 3425 (2009) and was adopted by the committee 6-1.

Tax credit for maintenance

Provide railroads with a state income tax credit for the costs of the maintenance of electronic grade crossing warning devices. This proposal was not acted on by the committee.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The committee did not make any findings of fact.

The committee recommended PD 3425 (2009) requiring motor vehicles to yield at crossings for hi-rail vehicles and on-track roadway maintenance machinery.

WITNESS LIST

Bob Babcock, Indiana Rail Road Company
Jeff Bainter, Brotherhood of Maintenance Way Employees
Tom Beck, Rail Division, Indiana Department of Transportation
Chief John Bennett, New Haven/Adams Township Fire Department.
Chief Carl Blair, Washington Township/Avon Fire Department
Matt Brase, Indiana Association of Cities and Towns
J. Eric Dietz, Executive Director, Indiana Department of Homeland Security
Kenny Edwards, United Transportation
Jessica Feder, Indiana Operation Lifesaver
Tom Fruechtenicht, Indiana Rail Transportation Group
Paul Giley, Norfolk Southern
Bryan Glover, CSX
Ron Haines, Norfolk Southern
Cathy Hale, Madison Railroad, Indiana Rail Transportation Group
Rudy Husband, Norfolk Southern
Tom Kinser, Indiana Operation Lifesaver
Jennifer MacDonald, Association of American Railroads, Washington, D.C.
Mike Riley, Rail Division, Indiana Department of Transportation
John Secor, Louisville & Indiana Railroad
Chuck Sosbe, Professional Firefighters Union of Indiana
Tom Streicher, American Association of Short Line Railroads, Washington, D.C.
Jim Thompson, Chicago, South Shore & South Bend Railroad
Bill Verdeyen, Brotherhood of Locomotive Engineers and Trainmen
Steve Watson, CSX, Indiana Rail Transportation Group